

REMARKS

The present amendment is submitted in response to the Office Action dated June 24, 2004, which set a three-month period for response, making this amendment due by September 24, 2004.

Claims 1 and 4-6 are pending in this application.

In the Office Action, claims 1-4 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-4 were further rejected under 35 U.S.C. 102(e) as being anticipated by Japanese Patent No. JP 2002029304 A to Abe.

In the present amendment, the claims have been amended to address the rejections under Section 112, second paragraph.

To more clearly define the present invention over the cited reference to Abe, claim 1 has been amended to add the features of claim 2, which has been canceled. Claim 3, which was canceled, has been rewritten in independent form as new claim 5, and new claim 6 was added, which combines the features of claims 1, 2, and 3.

The Applicants respectfully disagree that the cited reference to Abe anticipates the present invention as defined in claims 1 and 3-6. Abe discloses a holder for a first container with pivotal lids 20, 21 for diameter equalization. Therefore, first pivotal lids 20 are displaceable in a horizontal groove 40 and pivotably guided and second pivotal lids 21 are displaceable into a vertical, more

deeply arranged groove and pivotably guided. The pivotal lids 20,21 are pivotably connected to one another.

In contrast, in the present invention, the holding jaws of the holder require NO additional control element, while in Abe, the second pivotable lid or flap 21 is required. In addition, with the present invention, the guide tracks determine the position of the holding jaws, the holding jaws are shifted/displaced by force and pivoted. With Abe, the translatory and the rotary movements are coupled and the first pivotal lids 20 can be pivoted at each point of the guide track 40.

As disclosed in the specification to the present application on page 2, line 2 and page 4, line 2, the displacability of the holding jaws and of the holder on the curved slideways, or guide tracks, offer a combined translatory and rotary movement of the holding jaws through the curved slideways (as defined in claim 2) and/or the at least two non-parallel slideways. These features are not disclosed nor suggested by the patent to Abe.

Therefore, based on the foregoing differences, the rejection under Section 102 cannot be maintained. Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). Because the Abe patent fails to disclose all of the features of the amended claims, the rejection under Section 102 must be withdrawn.

For the reasons set forth above, the Applicants respectfully submit that claims 1 and 4-6 are patentable over the cited art. The Applicants further request

withdrawal of the rejection under 35 U.S.C. 102 and reconsideration of the claims as herein amended.

In light of the foregoing amendments and arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,


Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700